REMARKS

The Examiner has rejected Claims 21-45 and 48 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Serial No. 2003/0182431 to Sturniolo et al. ("Sturniolo"). Claims 1-20 stand previously canceled. Claims 46 and 47 stand previously withdrawn. Claims 21-48 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current Claims 21-45 and 48. An early Notice of Allowance is therefore requested.

I. THE NEXT ACTION CANNOT BE MARKED FINAL

As an initial matter, Applicant notes that, since Sturniolo fails to qualify as prior art under any section of 35 U.S.C. § 102, as discussed below, the next Action **cannot** be marked as final.

II. SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

III. REJECTION OF CLAIMS 21-45 AND 48 UNDER 35 U.S.C. § 102(E) BASED ON STURNIOLO

On page 2 of the current Office Action, the Examiner rejects Claims 21-45 and 48 under 35 U.S.C. § 102(e) as being anticipated by Olgaard. These rejections are respectfully traversed and believed overcome in view of the following discussion.

A. Sturniolo FAILS to Qualify as Prior Art

As an initial matter, Applicant notes that Sturniolo fails to qualify as prior art under any section of 35 U.S.C. § 102.

In particular, Sturniolo's publication date is September 25, 2003. However, the filing date for the current Application is November 3, 2000. As such, Sturniolo fails to qualify as prior art under either 35 U.S.C. § 102(a) or 102(b).

In addition, while the cover of Sturniolo states that it is a continuation of U.S. Patent Application Serial No. 09/330,310 ("the '310 Application"), this is not true. Rather, as stated in the body of Sturniolo:

> "This application claims the benefit of priority from the following copending commonly-assigned related U.S. patent applications:
>
> "U.S. Provisional Application No. 60/347,243, filed Jan. 14, 2002 (Attorney Docket 3978-9);
>
> "U.S. Provisional Application Serial No. 60/274,615 filed Mar. 12, 2001, entitled 'Method And Apparatus For Providing Mobile and Other Intermittent Connectivity In A Computing Environment' (Attorney Docket 3978-6);
>
> "U.S. patent application Ser. No. 09/330,310 filed Jun. 11, 1999, entitled 'Method And Apparatus For Providing Mobile and Other Intermittent Connectivity In A Computing Environment' (Attorney Docket 3978-3);
>
> "U.S. patent application Ser. No. 09/660,500 filed Sep. 12, 2000, entitled 'Method And Apparatus For Providing Mobile and Other Intermittent Connectivity In A Computing Environment' (Attorney Docket 3978-2); and
>
> "PCT International Application Number PCT/US01/28391 filed Sep. 12, 2001, entitled 'Method And Apparatus For Providing Mobile And Other Intermittent Connectivity In A Computing Environment' (Attorney Docket 3978-7)."

Sturniolo, ¶¶ [0001]-[0006].

This means that the disclosure of Sturniolo relates to **all** of the above cited documents. However, these documents are **not** all related to one another as continuations. For Example, U.S. Patent Application Serial No. 09/660,500 ("the '500 Application") is a **continuation-in-part** of the '310 Application, meaning that the '500 Application does **not** have a 102(e) date corresponding to that of the '310 Application. Similarly, U.S. Provisional Application No. 60/347,243 ("the '243 Provisional") and U.S. Provisional Application Serial No. 60/274,615 ("the '615 Provisional") both **postdate** the '310 Application. Thus, Sturniolo contains at least some information **not** supported by either the '310 or '500 Application, but rather only supported by either the '243 or '615 Provisional, both of which fail to qualify as prior art under either 35 U.S.C. § 102(e).

In other words, Sturniolo is a **continuation-in-part** of each of the above cited documents. Thus, the 102(e) date of Sturniolo is it's filing date, and **not** that of the '310 Application. However, the filing date of Sturniolo is January 13, 2003. As such, Sturniolo fails to qualify as prior art under either 35 U.S.C. § 102(e).

Accordingly, Applicants respectfully assert that Examiner **must** issue a new **non-final** Office Action citing **only** to either the 310' or '500 Application, as they are the **only** documents to which priority is claimed that actually qualify as prior art under 35 U.S.C. § 102(e). Therefore, for the above reasons alone, Applicant respectfully requests the Examiner withdraw the rejection of Claims 21-45 and 48 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Serial No. 2003/0182431 to Sturniolo et al.

B. Sturniolo FAILS to Anticipate Claims 21-45 and 48

Claim 21 states, in part:

> "a step of **providing software to the client system** that will allow the client system to connect to the target network; and
>
> "a step of **connecting the client system to the target network via a host system controlled by the software** provided in the client system, the step of connecting the client system to the target network comprises:
>
> a step of **locating the target network through the host system;**
>
> a step of **determining requirements** for connecting the client system to the target network; and
>
> a step of **linking** the client system to the target network **based on the requirements**;
>
> "wherein **requirements of the host system are not essential** for connecting the client system to the target network." (emphasis added).

(1) Connecting via a Host System

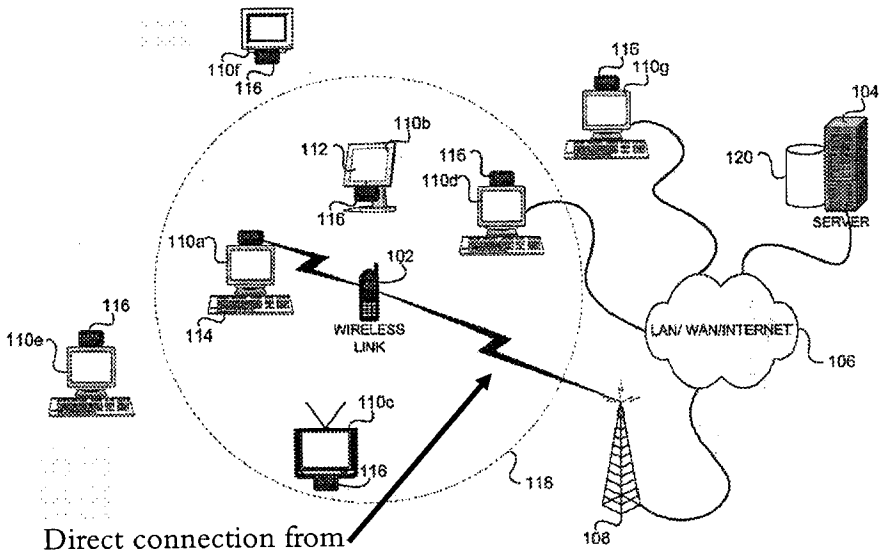
As stated above, Claim 21 states that the client system is connected to the target network **via a host system**, and that the target network is located **through the host system**. Examiner asserts that Sturniolo discloses the above claim language. This, however, misinterprets the teachings of Sturniolo.

More specifically, the disclosure of Sturniolo regarding the access points/NetMotion Mobility Server is the same as that of the prior reference cited (i.e., U.S. Patent No. 6,451,740 to Olgaard et al. ("Olgaard")).

As stated before, Olgaard teaches:

> "A system, method and article of manufacture are provided for utilizing a wireless link in an interface roaming network. **A wireless link is utilized to scan a vicinity of the wireless link to detect one or more interface clients in the vicinity.** The wireless link then transmits to an infrastructure server information relating to the interface clients detected in the vicinity. Based on the transmitted information, the infrastructure server then selects one of the interface clients. Subsequently, the wireless link receives a notification from the infrastructure server of the selected interface client and a connection between the infrastructure server and the selected interface client is initiated for communication therebetween." Olgaard, Col. 1, Lns. 31-43 (emphasis added).

As such, Olgaard teaches that a wireless link 102 (the closest disclosure to a "client system" in Olgaard) **directly** connects to a network 106 (the closest disclosure to a "target network" in Olgaard), which includes a wireless network portion 108. See Olgaard, Col. 4, Lns. This is seen clearly in the annotated version of Fig. 1 of Olgaard below:



Direct connection from wireless link 102 to wireless network portion 108.

FIG. 1

As such, Olgaard teaches a **direct** connection between a wireless link 102 and wireless network portion 108, and **not** "connecting the client system to the target network via a host system via a host system" or "locating the target network through the host system", as stated in Claim 21.

This is the same as the disclosure in the annotated copy of Fig. 5A of Sturniolo below:

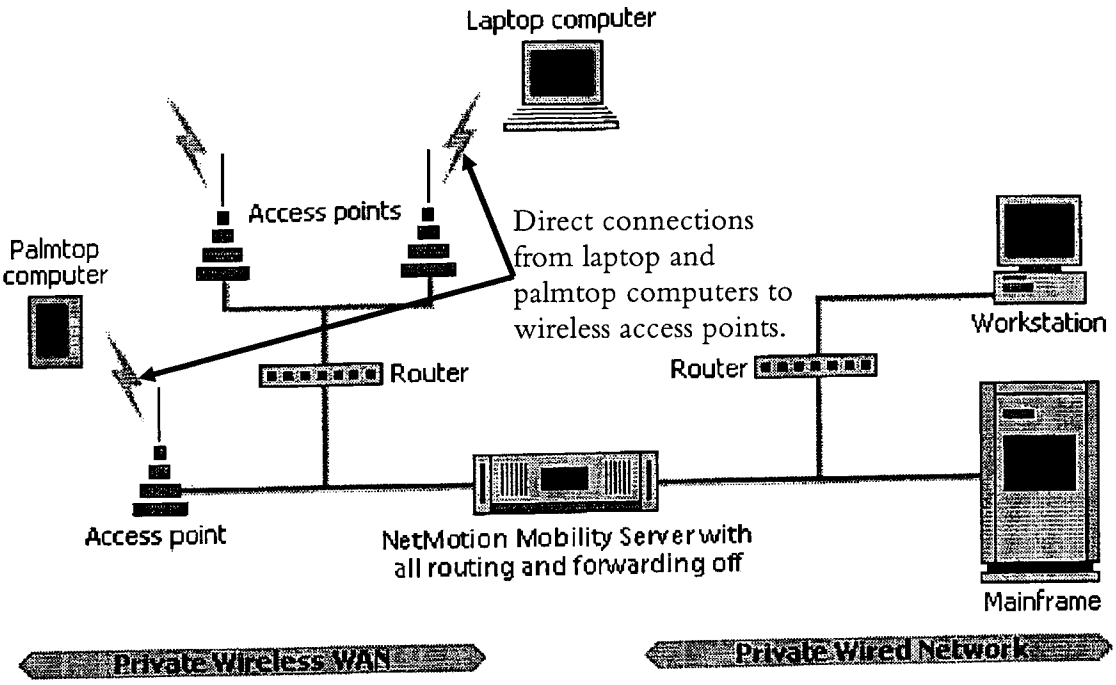


Figure 5A

In other words, the wireless access points/routers and the router are all part of the NetMotion Mobility Server **network**. Thus, as with Olgaard, Sturniolo teaches **directly** connecting to a network. As such, Sturniolo fails to disclose a client system that is connected to the target network **via a host system**, as stated in Claim 21.

(2) A Step Of Connecting That Is Controlled by the Software Located On the Client

First, Examiner does not point to any portion of Sturniolo which actually discloses specific software on the client system (e.g., laptop and palmtop computers, and Mobility Client) that will allow the client system to connect to the target network. Rather, Examiner asserts that such software is inherently provided. However, since Sturniolo does **not** disclose any such specific software on a client system, it is **impossible** for Struniolo to disclose that this **untaught** software performs the **specific** function stated in Claim 21 (i.e., to **control** the **connecting** the client system to the target network). While **some type** of software **might** be inherent, the **specific** function of such software is **not inherent**. For this reason alone, Examiner's logic is flawed, and Sturniolo fails to disclose that the connecting step is controlled by **software located on the client**, as stated in Claim 1.

Second, Examiner asserts that paragraph [0048] of Sturniolo discloses that the connecting step is controlled by software located on the client (i.e., the Mobility Client). However, paragraph [0048] of Sturniolo discloses no such thing. In fact, paragraph [0048] of Sturniolo specifically states:

> "Generally, one preferred exemplary non-limiting embodiment provides Mobility Client (MC) functionality that virtualizes the underlying network. Applications running on the mobility client see at least one consistent virtual network identity (e.g. IP address). When an application on the mobility client makes a network request, the mobility client intercepts the request and marshals the request to a Mobility Server (MS) that supports security such as IPSEC. **The mobility server unwraps the request and places it on the network as though the server were the client—thus acting as a proxy for the client.**"

No where in the above paragraph does Sturniolo disclose that the step of actually **connecting** is controlled by software located on the Mobility Client. The closest the above paragraph comes is stating that applicaitions on the Mobility Client (1) see at least one consistent virtual network identity (e.g. IP address), and (2) make a network request. Neither of these statements actually discloses that the step of actually **connecting** is controlled by software located on the Mobility Client. In fact, the above paragraph

explicitly states that the **mobility server** unwraps the request and places it on the network as though the server were the client—thus acting as a proxy for the client. Thus, it appears that any actual **connecting** is controlled by the **mobility server**, and **not** the Mobility Client.

For all the above reasons, Sturniolo fails to disclose a step of **connecting** the client system to the target network via a host system **controlled by the software provided in the client system**, as stated in Claim 21.

(3) Determining Requirements and Linking Based on the Determined Requirements

While Examiner asserts that Sturniolo discloses a step of determining requirements for connecting the client system to the target network, Examiner cites to no portion of Sturniolo which supports such an assertion. Further, the only paragraph of Sturniolo to which examiner cites (i.e., paragraph [0048], reproduced above) fails to describe **any** step whatsoever in which any requirements for connecting the client system to the target network are actually determined. In fact the only thing that is determined is the IP addresses for mobile IP, and **not** any actual requirements for connecting the client system to the target network. As such, Sturniolo fails to disclose the determining requirements step of Claim 21.

In addition, while Examiner asserts that paragraph [0041] of Sturniolo discloses a step of linking the client system to the target network based on the requirements, this is patently impossible. More specifically, as stated above, Sturniolo fails to disclose that **any** requirements are actually determined. Thus, it is **impossible** for Sturniolo to disclose linking the client system to the target network based on **non-disclosed** requirements. As such, since Sturniolo fails to disclose the determining requirements step of Claim 21, Sturniolo **must** also fail to disclose the linking step of Claim 21.

(4) Wherein the Requirements of the Host System Are Not Essential

As stated above, Sturniolo teaches that a client system (i.e., the laptop and palmtop computers of Fig. 5A) **directly** connects to a network (i.e., the NetMotion Mobility Server and its wireless access points). Thus, even if the NetMotion Mobility

Server could be construed as a host system (which Examiner does not assert, and Applicant disputes), any requirements of the NetMotion Mobility Server would **inherently** be essential, as the client systems of Sturniolo actually connect to the NetMotion Mobility Server, and do not merely use it as a conduit to another network. As such, Struniolo fails to disclose that the **requirements** of the **host system** are **not essential** for connecting the client system to the target network, as stated in Claim 1

(5) Conclusion

Accordingly, for all the reasons described above, Applicant respectfully asserts that Examiner has failed to establish a prima facie case of anticipation of independent Claim 21, and corresponding Claims 22-45 and 48 because they are ultimately dependant from independent Claim 21. Therefore, Applicants respectfully requests that Examiner remove the rejection of Claims 21-45 and 48 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Serial No. 2003/0182431 to Sturniolo et al.

C. Dependent Claims 22-45 and 48

As stated above, Claims 22-45 and 48 are ultimately dependant from independent Claim 21. Thus, as Claim 21 is allowable, so must be Claims 22-45 and 48.

Further, Examiners assertion of anticipation of these dependent claims is wholly **deficient**. More specifically, Examiner just blanketly asserts that Claims 22-45 and 48 are anticipated based on the embodiment shown with respect to Claim 21 of Sturniolo. However, Claim 21 of Sturniolo most certainly does **not** disclose the limitations of Claims 22-45 and 48.

As one exemplar, Claim 29 requires, in part:

> "where the determining step further comprises:
>
> > "a step of **determining a cost** of **obtaining a link**; and
> >
> > "a step of **comparing the cost with a predetermined limit** stored by said client system where a match will be found if the cost is less than or equal to the predetemined limit." (emphasis added).

All that Claim 21 of Sturniolo states is:

"21. A method comprising:

"(a) facilitating the creation of plural IP Security sessions; and

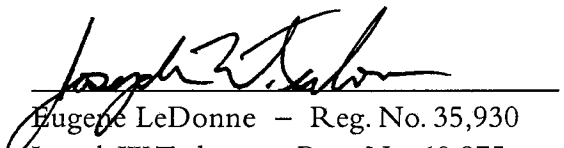
"(b) selectively allowing, denying and/or delaying the flow of network communications over at least one of said plural IP Security sessions based at least in part on applying policy rules."

As can be seen above, Claim 21 of Sturniolo bears **no relevance whatsoever** to the limitations of Claim 29 of the current Application. This is the same for all of the other dependent claims which Examiner just blanketly rejects. As such, Examiner's rejection of Claims 22-45 and 48 is wholly **deficient**.

Accordingly, Applicant respectfully asserts that Examiner has failed to establish a prima facie case of anticipation of Claims 22-45 and 48. Therefore, Applicants respectfully requests that Examiner remove the rejection of Claims 22-45 and 48 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Serial No. 2003/0182431 to Sturniolo et al.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



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